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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0036**

In re the Estate of: Harold E. Farnes,
a/k/a Harold Farnes and Harold Ellwood Farnes,
Decedent.

**Filed September 17, 2018
Affirmed
Kalitowski, Judge***

Carver County District Court
File No. 10-PR-13-84

Stephen W. Farnes, Excelsior, Minnesota (pro se appellant)

Cynthia L. Hegarty, Erika Stein Rosenhagen, Morrison Sund P.L.L.C., Minnetonka,
Minnesota (for respondent Security Bank & Trust Company)

Considered and decided by Ross, Presiding Judge; Reyes, Judge; and Kalitowski,
Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

In this appeal from an order in a probate proceeding, appellant Steven W. Farnes challenges the inclusion of real property, known as “the farm,” in the inventory of his father’s estate, arguing the property belonged to his sister at the time of his father’s death

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

and his sister's subsequent execution of a quitclaim deed to the estate constitutes a gift for tax purposes. We affirm.

DECISION

A probate court has jurisdiction over “all subject matter relating to estates of decedents” and the power “to take all . . . action necessary and proper to administer justice in the matters which come before it.” Minn. Stat. § 524.1-302 (2016). Our review of a probate order is limited to determining whether the probate court's findings are clearly erroneous or whether it erred in applying the law. *In re Estate of Simpkins*, 446 N.W.2d 188, 190 (Minn. App. 1989). We defer to the probate court's credibility findings because that court “ha[s] the advantage of observing the witnesses and judging their credibility on a first hand basis.” *Hollom v. Carey*, 343 N.W.2d 701, 704 (Minn. App. 1984).

A personal representative is required to complete an “inventory of property owned by the decedent at the time of death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death.” Minn. Stat. § 524.3-706 (2016). “The purpose of a probate inventory is to show ownership and value of a decedent's property.” *State v. Stickney*, 5 N.W.2d 351, 353 (Minn. 1942). Property owned at the time of a decedent's death passes to the beneficiaries under the terms of the will. *See In re Mokros' Estate*, 130 N.W.2d 121, 127 (Minn. 1964).

Appellant objected to the inclusion of the farm in the estate inventory on the ground that the title to the farm had been held in joint tenancy between his father and sister since 1975, and therefore his father's interest in the farm passed to his sister at death. At an evidentiary hearing, the sister explained that her father had executed a quitclaim deed of

the farm to her in 1973 in order “to divert funds from [his] second marriage” at a time when he was going through a divorce. She did not know that her father had never changed the title back to his name and believed her father simply erred in failing to update his paperwork after the divorce was finalized. She explained that she executed a quitclaim deed to her father’s estate in 2015 at the personal representative’s request in order to clean up her father’s mistake concerning the title to the farm.

Consistent with this testimony, the record indicates that in 2015 the personal representative explained to the district court in a request to sell the farm that the title to the farm had defects, but he had corrected those defects. The district court accepted the sister’s explanation, finding “nothing improper was done with respect to correcting the title to The Farm, and its inclusion in the Estate is appropriate.”

A conveyance of real property to a deceased person is void and unenforceable. *See In re Estate of Savich*, 671 N.W.2d 746, 750 (Minn. App. 2003). But, in this case, the district court did not find that the 2015 quitclaim deed actually conveyed any interest in the farm to the decedent. Rather it found that the quitclaim deed operated to correct an error in the chain of title. The district court, in accepting the sister’s explanation of the 1973 quitclaim deed and rejecting appellant’s claims that the title to the farm was held in joint tenancy since 1975, implicitly found that the decedent actually owned the farm at the time of his death and the 2015 quitclaim deed operated to correct a defect in the title documents.

Appellant further argues that the farm should be considered a gift to the estate “with no other legal identifier.” A specific devise “becomes a part of the residue” if it fails for

any reason. Minn. Stat. § 524.2-604(a) (2016). Appellant argues that the specific bequest of the farm fails because the farm was owned by his sister at the time of his father's death. But the district court found that the decedent owned the property at the time of his death and the subsequent quitclaim deed only "corrected" deficiencies in the title documents. Thus, the specific bequest of the farm does not fail because the farm was not a subsequent "gift" to the estate.

The district court also implicitly found that the personal representative acted within his authority to correct any defects in the chain of title. A personal representative has the duty "to evaluate and pursue claims that would benefit the estate." *See Prof'l Fiduciary, Inc. v. Silverman*, 713 N.W.2d 67, 71 (Minn. App. 2006), *review denied* (Minn. July 19, 2006). He or she may "prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate" and may "acquire or dispose of an asset, including land in this or another state." Minn. Stat. § 524.3-715(6), (22) (2016); *see also* Minn. Stat. § 524.3-703(c) (2016) ("[A] personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as the decedent had immediately prior to death."). Moreover, the personal representative "may maintain an action to recover possession of property or to determine the title thereto." Minn. Stat. § 524.3-709 (2016).

As the decedent would have had the ability to maintain an action to correct any defects in the chain of title prior to his death, the personal representative likewise had the authority to do so on behalf of the decedent's estate. The personal representative did so by clarifying with the sister her father's intent in conveying his interest in the farm, and by

requesting a quitclaim deed upon learning that her father only executed the quitclaim deed to “divert funds” during a divorce without intent to actually transfer ownership of the property. By clarifying the decedent’s ownership interest in the estate with the sister and requesting a quitclaim deed to correct any deficiencies in the decedent’s title to the farm, the personal representative acted within his authority to determine title to property and pursue claims beneficial to the estate.

Because the district court implicitly found that the decedent owned the property at the time of his death, the district court did not err in including the farm in the estate inventory.

Affirmed.